

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS AND VERIZON CORPORATE
SERVICES GROUP, INC.,

Defendants.

Case No. 2:23-cv-00352-JRG-RSP

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Local Patent Rule 4-3, and the Court’s Docket Control Order (Dkt. 40), Plaintiff Headwater Research, LLC (“Headwater”) and Defendants Cellco Partnership, d/b/a Verizon Wireless and Verizon Corporate Services Group Inc. (collectively, “Defendants” or “Verizon”) (all together, the “parties”) respectfully submit the following Joint Claim Construction and Prehearing Statement.

I. AGREED CLAIM CONSTRUCTIONS (P.R. 4-3(A)(1))

The parties have not identified any agreed claim constructions.

II. DISPUTED CLAIM CONSTRUCTIONS (P.R. 4-3(A)(2))

The parties’ proposed constructions of disputed terms are provided in the chart below. The parties’ proposed constructions are also set forth in the accompanying **Exhibit A**, along with the intrinsic and extrinsic evidence on which the parties intend to rely.

A. U.S. Patent No. 8,589,541

Term No.	Claim Term	Headwater's Proposed Construction	Verizon's Proposed Construction
1	"one or more prospective ... communications [over a wireless network]" (claims 1-174)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.
2	"service usage activity" (claims 1-174)	No construction necessary; plain and ordinary meaning.	"an activity by the first software component that requires usage of a wireless network connection"
3	"background activity" (claims 1-174)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.

B. U.S. Patent No. 9,198,042

Term No.	Claim Term	Headwater's Proposed Construction	Verizon's Proposed Construction
4	"device service state" (claims 1-18)	No construction necessary; plain and ordinary meaning.	"information about the current status of the device required to adequately define the actions needed from the service controller to maintain proper device-assisted service (DAS) system operation"
5	"service policy setting" (claims 1-18)	"policy setting for a network data service"	"rule for governing network service usage that can be implemented on the device"

6	“protected partition” (claims 1-18)	No construction necessary; plain and ordinary meaning.	“a secure device assisted service execution environment”
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C. U.S. Patent No. 9,215,613

	Claim Term	Headwater’s Proposed Construction	Verizon’s Proposed Construction
7	“differential traffic control policy” (claims 1-24)	No construction necessary; plain and ordinary meaning.	“rules for controlling network traffic that distinguishes between two or more things”
8	“classify whether a particular application capable of both interacting with the user in a user interface foreground of the device, and at least some Internet service activities when not interacting with the user in the device user interface foreground, is interacting with the user in the device user interface foreground” (claims 1-24)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.
9	“the user of the device is directly interacting with that application or perceiving any benefit from that application” (claim 6)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.

III. ANTICIPATED LENGTH OF TIME NEEDED FOR THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(A)(3))

The parties estimate that three hours will be needed for the claim construction hearing. The parties agree that each side will be allocated half of the total time permitted for the hearing.

IV. PROPOSED WITNESSES TO BE USED AT THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(A)(4))

No party proposes to call witnesses at the claim construction hearing.

V. OTHER ISSUES TO BE ADDRESSED PRIOR TO CLAIM CONSTRUCTION HEARING (P.R. 4-3(A)(5))

The parties are not currently aware of any issues that they would propose taking up at a prehearing conference prior to the claim construction hearing.

Dated: August 27, 2024

/s/ Michelle Zhu

/s/ Marc Fenster

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 27th day of August 2024, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Marc Fenster

Marc Fenster

CERTIFICATE OF CONFERENCE

The undersigned certifies that counsel complied with the requirements of Eastern District of Texas Local Rule CV-7(h). The parties are in agreement on filing this Joint Motion.

/s/ Marc Fenster

Marc Fenster